IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Keshar Dev Vs. State of Rajasthan & Ors.

S.B.CR.MISC. PETITION NO.504/2005

DATE OF ORDER :: November 16, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. N.L.Joshi, for the petitioner.
Mr.Ashok Upadhyaya, P.P.
Mr.N.S.Rajpurohit, for non-petitioners.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt. 21.4.2005 passed by the Additional Sessions Judge, Churu (for short 'the revisional court' hereinafter), whereby the revision petition filed by the non-petitioners No.2 and 3 against the order dt. 02.6.2004 passed by the Judicial Magistrate, Churu (for short 'the trial court' hereinafter) was allowed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by both the courts below.

It appears that after investigation, the police filed the negative final report. The trial court accepted the negative final report in absence of sanction by the State Government to prosecute the petitioner, who claims to be a Sarpanch. From the perusal of the order of the revisional court, it appears that in the FIR, the complainant levelled the serious allegations against the petitioner for forging of the documents and on the basis of forged document as also forging the muster rolls and the signatures thereon, withdrew the public money, which was meant to be paid to the labourers. The allegations are that the petitioner has forged the thumb impressions and signatures of the various labourers on the muster roll, withdrew the amount. The muster roll on being examined by the FSL, it was prima facie found to be forged. Keeping in view the statements of the persons, whose signatures and thumb impressions have been forged as also the report of hand writing expert, the revisional court came to the conclusion that there is a ground to proceed against the petitioner. So far question of sanction is concerned, the act complained of has absolutely no nexus with discharge of the public duty. The amount was to be paid to the various villagers, who are below poverty line through muster roll, which the petitioners forged denying the payments to those persons for whom the payment was to be made and took the money for his gainful use. Keeping in view the serious allegations, the

revisional court set aside the order of the trial court and in my view rightly so. In such matters, the protection of section 197 Cr.P.C. is not available. In the circumstances, therefore, the revisional court was justified in allowing the revision petition and setting aside the order of the trial court and also remanding the matter to the trial court to pass a fresh order in accordance with law. It cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any court, on the contrary, in order to secure the ends of justice, the order of the revisional court is justified.

The petition has no force and the same is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-